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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,125	08/22/2003	David Nurok	29920-73303	8873
23643	7590	06/02/2006		
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			EXAMINER THERKORN, ERNEST G	
			ART UNIT 1723	PAPER NUMBER
DATE MAILED: 06/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/646,125

Applicant(s)

NUROK ET AL.

Examiner

Ernest G. Therkorn

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 5-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998, pages 244-246) in view of Perry (U.S. Patent No. 3,864,250). At best, the claims differ from Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998) in reciting use of pressure. Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998, pages 244-246) is concerned with the evaporation of mobile phase. Perry (U.S. Patent No. 3,864,250) (column 1, lines 45-51) discloses that heat controls the movement of solvent through the bed and pressure may be used to control evaporation. It would have been obvious to use a temperature controlled pressure chamber in Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998, pages 244-246) because Perry (U.S. Patent No. 3,864,250) (column 1, lines 45-51) discloses that heat controls the movement of solvent through the bed and pressure may be used to control evaporation.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998, pages 244-246) in view of Perry (U.S. Patent No. 3,864,250) as applied to claims 1, 2, and 5-12 above, and further in view of Stillian (U.S. Patent No. 5,248,426). At best, the claim differs from

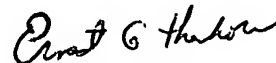
Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998, pages 244-246) in view of Perry (U.S. Patent No. 3,864,250) in reciting use of foil. Stillian (U.S. Patent No. 5,248,426) (column 12, lines 38-41) discloses platinum foil electrodes prevent excessive resistive heating. It would have been obvious to use platinum foil electrodes in Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998, pages 244-246) in view of Perry (U.S. Patent No. 3,864,250) because Stillian (U.S. Patent No. 5,248,426) (column 12, lines 38-41) discloses platinum foil electrodes prevent excessive resistive heating.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998, pages 244-246) in view of Perry (U.S. Patent No. 3,864,250) as applied to claims 1, 2, and 5-12 above, and further in view of Tompa (U.S. Patent No. 4,671,870). At best, the claims differ from Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998, pages 244-246) in view of Perry (U.S. Patent No. 3,864,250) in reciting use of a temperature control device. Tompa (U.S. Patent No. 4,671,870) (column 5, lines 46-53) discloses that a temperature control device allows for temperature in a pressurized thin layer chromatography device. It would have been obvious to use a temperature control device in Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998, pages 244-246) in view of Perry (U.S. Patent No. 3,864,250) because Tompa (U.S. Patent No. 4,671,870) (column 5, lines 46-53) discloses that a temperature control device allows for temperature in a pressurized thin layer chromatography device.

The remarks urge that the letter of May 17, 2006 indicating that the publication date of Nurok (Journal of Planar Chromatography, Vol. 11, July/August 1998, pages 244-246) dated July/August 1998 was indeed October 26, 1998. However, 37 CFR 1.132 requires that any evidence submitted to traverse the rejection or objection on a basis not otherwise provided for must be by way of an oath or declaration under 37 CFR 1.132. As such, the letter does not overcome the rejection. This is particularly true where the printout from Dialog indicates that the publication date was July 1998. In addition, an explanation of why there is such a difference between the publication date on the article and the alleged publication date has not been made. Lastly, the inventive entity listed on the article and on the patent application is different.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (571) 272-1149. The official fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Ernest G. Therkorn**  
**Primary Examiner**  
**Art Unit 1723**

EGT  
May 31, 2006